Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Verizon Telephone Companies	)	WC Docket No. 02-237
Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation	)	

REPLY COMMENTS OF AT&T CORP.

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Pursuant to § 63.71(a)(ii) of the Commission's Rules, 47 C.F.R. § 63.71(a)(ii), AT&T Corp. ("AT&T") submits these reply comments in response to the comments filed in connection with Verizon's Application to Discontinue Federally-Tariffed Physical Collocation Service ("Application").[1]

INTRODUCTION

The comments confirm that the Application should be denied because it is an improper effort by Verizon unilaterally to (i) modify the rates, terms and conditions upon which it offers federally-tariffed physical collocation services (including the provision of new cross-connects) and (ii) circumvent necessary Commission jurisdiction over those modifications. The commenters agree that Verizon is not permitted indirectly to modify rates, terms and conditions of this federally-tariffed service when it attempted, and failed only a year ago, to modify those terms directly. In particular, with regard to federally-tariffed cross-connects, the comments make

[1] WC Docket No. 02-237 (rel. Aug. 19, 2002).

clear that Verizon's approach cannot be reconciled with the Commission's recent determination that "incumbent LECs must file tariffs with the Commission for their cross-connect offerings."[2]

Second, the comments confirm that Verizon has failed to satisfy its burden of proof under § 214 and the Commissions implementing regulations. First, Verizon's Application wholly ignores the substantial administrative and transactional costs associated with a conversion from federally-tariffed physical collocation to physical collocation under state tariffs and interconnection agreements. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd. 15,499, ¶ 611 (1999) (elimination of collocation under federal tariffs would be "unnecessarily disruptive").

Further, the alternative physical collocation arrangements proposed by Verizon do not constitute "a reasonable substitute." 47 C.F.R. § 63.71(a)(ii). Specifically, Verizon's interconnection agreements are not an adequate substitute for federally-tariffed physical collocation services because those agreements incorporate Verizon's federally-tariffed physical collocation arrangements as part of their terms. Qwest at 6-7. As a result, Verizon's proposal to discontinue federally-tariffed physical collocation arrangements would violate the terms of Verizon's binding interconnection agreements. *Id.*

Similarly, the comments confirm that Verizon's offer of physical collocation through state tariffs is not a reasonable substitute because the arrangements under Verizon's state tariffs are substantially different than the federally-tariffed physical collocation arrangements upon which carriers have relied. Verizon's efforts to account for those differences through a

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[2] *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Order on Reconsideration of Fourth Report & Order, and Fifth Report and Order, ¶ 9 (rel. Sept. 4, 2002) ("*Cross-Connect Reconsideration Order*").

conversion credit in select states are wholly inadequate because they fail to provide carriers with an adequate up-front payment to compensate for the significant investments made by competitive carriers to avail themselves of the benefits of the federally-tariffed arrangements that Verizon seeks unilaterally to modify or discontinue.

Finally, the comments properly highlight that Verizon's Application is contrary to the recent *Cross-Connect Reconsideration Order*, which requires that incumbent LECs such as Verizon provide cross-connects pursuant to federal tariffs. Here, Verizon's Application seeks, in violation of the *Cross-Connect Reconsideration Order*, to withdraw its federally-tariffed provision of new cross-connects. The availability of this federally-mandated service is particularly important because Verizon has argued that it is under no obligation to provide cross-connect services under § 251(c)(6) of the Act.

ARGUMENT

I. VERIZON'S APPLICATION IS AN IMPROPER EFFORT TO MODIFY THE TERMS AND CONDITIONS OF EXISTING FEDERALLY-TARIFFED PHYSICAL COLLOCATION SERVICES.

As ALTS explains, the "Application represents nothing more than Verizon's second attempt to get the Commission to endorse . . . vastly increase[d] physical collocation rates." ALTS at 9. Just last year, Verizon proposed to increase its charges "for DC power under federal tariffs approximately 293%, 236% and 132% in New York/Connecticut, the remainder of the Verizon North region, and Verizon South region, respectively." Allegiance at 2; *see also* ALTS at 9 (same). Verizon terminated the proceedings before the Commission could rule on the reasonableness of its proposal. But now Verizon seeks, improperly, through its Application "to achieve the result of its previous proposals by attempting to shift DC power charges for existing customers from federal to state tariffs." Allegiance at 3, 11.

The Commission has previously "expressed a strong preference for nationally applicable collocation rules and standards." ALTS at 6.[3] Here, however, Verizon seeks to carve out essential services associated with its federally-tariffed physical collocation offering and insulate them from the Commission's jurisdiction. As the comments recognize, Verizon refuses to "grandfather" any of the services necessary to support the customers' physical collocation services. Allegiance at 8-9; ALTS at 11, 12-13; Covad at 7-9; Qwest at 2, 4-5; AT&T at 6. Rather, Verizon proposes to move all supporting services, including new cross-connects, to state tariffs and interconnection agreements. Allegiance at 8-9; ALTS at 11, 12-13; Covad at 7-9; Qwest at 2, 4-5; AT&T at 6. But the Commission has made clear that incumbent LECs such as Verizon must provide cross-connect services pursuant to federal tariffs. *Cross-Connect Reconsideration Order*, ¶ 9. In short, Verizon's efforts unilaterally to (i) modify the rates, terms and conditions associated with its federally-tariffed physical collocation services, and (ii) oust the Commission's jurisdiction over those services should be rejected.

II. VERIZON'S APPLICATION SHOULD BE REJECTED BECAUSE THERE ARE NO REASONABLE SUBSTITUTE SERVICES AND THE APPLICATION WOULD NOT SERVE THE PUBLIC CONVENIENCE OR NECESSITY.

Verizon bears the burden to show that discontinuance of its provision of federally-tariffed physical collocations services will not adversely affect carriers that have relied upon such services. As the Commission has explained, "[t]he burden is cast upon the carrier which wishes

[3] *See In the Matter of Deployment of Wireline Servs. Offering Advanced Telecomms. Capability* (CC Docket 98-147), First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48, 14 FCC Rcd 4761 (rel. Mar. 31, 1999).

to discontinue a service to make proper application for a certificate that neither the present or future public convenience and necessity will be adversely affected by [such] discontinuance."[4]

Verizon has not come close to carrying that burden. *See, e.g.*, ALTS at 5-6; Covad at 4-5; AT&T at 11-14. "CLECs have relied on the continuation of the availability of federally tariffed collocation services, have already paid the space preparation charges, and would be substantially harmed by withdrawal of any aspect of it." Allegiance at 13; *see also* Covad at 2 (noting that competitive carriers have made "enormous" investments "in physical collocations through Verizon's expanded interconnection tariffs"); AT&T at 10. Verizon's Application simply ignores these reliance interests and the "unnecessarily disruptive" impact of its proposal to discontinue those federally-tariffed services on a going-forward basis on competitive carriers.

Further, the commenters agree that the alternatives proposed by Verizon are not "reasonable substitutes." In particular, requiring "carriers to obtain physical collocation through state tariffs and interconnection agreements is dilatory, expensive, and uncertain." ALTS at 14. As Qwest explains, state interconnection agreements often incorporate "interstate tariff provisions dealing with collocation into the agreements." Qwest at 3. The same is true of AT&T's interconnection agreements with Verizon. *See* Interconnection Agreement Between Bell Atlantic-MD, Inc. and TCG MD (Feb. 26, 1997), Attachment 3, § 1 (Verizon "shall provide AT&T Collocation in accordance with the terms of its FCC and [state] Collocation Tariffs and the provisions of this Attachment 3").

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[4] *See, e.g.*, *In the Matter of Southwestern Bell Tel. Co. et al.; Applications for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Servs.*, Order, 8 FCC Rcd. 2589, ¶ 52 (1993) (internal footnotes and quotation marks omitted).

Similarly, virtual collocation is not an adequate substitute because it "leaves the incumbent LEC with exclusive physical control over the collocated equipment." Covad at 5. As ALTS notes, "the Commission consistently has concluded that virtual collocation is not a substitute for physical collocation." ALTS at 14 (citing Commission decisions); *see also* AT&T at 10 (noting the "importance of physical collocation to the Commission's efforts to introduce facilities-based competition for local telecommunications services").

Nor do state tariffs offer a reasonable substitute. Specifically, the conversion credit Verizon proposes in select states is wholly inadequate and amounts to an effort by Verizon to bill competitive carriers twice for the same service, first through an up-front non-recurring charge, and second, through inflated state tariff rates designed to recover the same costs. AT&T at 4, 14; Allegiance at 11-12. Indeed, Verizon's proposal for New York is perhaps the most egregious example. There Verizon seeks to double-bill its customers by obtaining the large up-front costs which customers paid under the federal tariffs, and then obtain even larger recurring fees under the state tariffs without *any* offsetting credit. AT&T at 4, 14; Choice One at 4. Not only does the credit fail to fully compensate Verizon's physical collocation customers, but the credit is paid over a period of 9½ years even though the payment made to Verizon under the federal tariffs was a one-time up-front payment. AT&T at 14; Allegiance at 11-12.

What is more, even if Verizon were allowed to return these up-front payments over time, Verizon understates the gross amount of up-front payments that must be returned to competitive carriers. Verizon asserts, erroneously, that the "normal life of a collocation arrangement is equivalent to the 12-year depreciation life of the circuit equipment." Application at 7. But when KPMG conducted an independent review of Verizon's tariffs and procedures, it reported (without objection from Verizon) that Verizon applied a thirty-year period for depreciation of collocation space.[5] Verizon's manipulation of the depreciation period is a blatant attempt to avoid returning to CLECs a significant amount of their undepreciated investment when Verizon calculates the credits that it proposes to offer.[6]

Finally, the comments confirm that Verizon's proposal to eliminate federally-tariffed cross-connects is an improper attempt to evade § 201 and therefore must be rejected. AT&T at 14-15; ALTS at 22 ("the Commission has concluded [Verizon's attempt to withdraw a federally-tariffed service] must be provided pursuant to Section 201 of the Act"). As ALTS explains, Verizon's proposal violates the *Cross-Connect Reconsideration Order*, which requires that incumbent LECs such as Verizon are obligated to offer cross-connect services pursuant to federal tariffs. ALTS at 21. Verizon's proposal is particularly egregious since, it "has taken the position that Section 251(c)(6) does not obligate Verizon to cross-connect the physical collocation equipment of competitors with that of other competitive carriers." *Id.*

[5] *See* KPMG, Verizon Virginia, Inc., OSS Evaluation Project, Provisioning Domain Results & Analysis Section, at 209 (2002) ("A vacating CLEC obtains a credit if Verizon VA resells the space to another CLEC. The credit will amount to the undepreciated value of the assets that were vacated over a thirty-year period").

[6] Verizon's reliance upon "administrative convenience" is misplaced. AT&T at 3 & 12; ALTS at 6, 15 & n.29; Covad at 9. As an initial matter, Verizon has made no showing that the current federally-tariffed physical collocation services subject it to any undue administrative burden. ALTS at 15; Choice One at 5; Covad at 4, 6. To the extent that Verizon claims any administrative costs, however, Verizon's proposal would actually increase the administrative burden upon both Verizon and its customers. Covad at 9. Moreover, Verizon's Application would also inflate the transaction costs incurred by purchasers, ALTS at 6-7, and impose disparate pricing regimes, *id.* at 8-9.

CONCLUSION

For these reasons, the Commission should deny Verizon's Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation.

Respectfully submitted,

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Dated: October 3, 2002

APPENDIX

Commentator	Abbreviation
Allegiance Telecom, Inc., DSL Net Communications, LLC and, Focal Communications Corporation	Allegiance
Association for Local Telecommunications Services, The Competitive Telecommunications Association, and Broadview Networks, Inc.	ALTS
Choice One Communications	Choice One
Covad Communications Company	Covad
Conversent Communications	Conversent
Qwest Communications Corporation	Qwest

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply Comments of AT&T Corp. was served, by the noted methods, the 3d day of October, 2002, on the following:

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